

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BETTY DUPERE,

Plaintiff,

-against-

ETHICON, INC. et al.,

Defendants.  
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USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
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DATE FILED: 6/21/2021

21-CV-2605 (VSB)

**ORDER**

VERNON S. BRODERICK, United States District Judge:

On June 18, 2021, Plaintiff filed an amended complaint pursuant to Federal Rule of Civil Procedure 15(a)(1)(B). “[W]hen a plaintiff properly amends [a] complaint after a defendant has filed a motion to dismiss that is still pending, the district court has the option of either denying the pending motion as moot or evaluating the motion in light of the facts alleged in the amended complaint.” *Pettaway v. Nat’l Recovery Sols., LLC*, 955 F.3d 299, 303–04 (2d Cir. 2020).

Accordingly, it is hereby:

ORDERED that Defendants shall file a letter on or before June 28, 2021, deciding whether their motion to dismiss should be deemed moot without prejudice to refile a new motion to dismiss in accordance with Federal Rule of Civil Procedure 15(a)(3), or if I should evaluate Defendants’ current motion to dismiss in light of the facts alleged in the amended complaint.

SO ORDERED.

Dated: June 21, 2021  
New York, New York



Vernon S. Broderick  
United States District Judge